

LEGISLATIVE ETHICS BOARD RULE 3: PRIVATE USE OF STATE RESOURCES

(1) **Introduction.** Public resources entrusted to legislators and legislative employees for the public interest are to be used to facilitate the services and persons for whom they are intended. This trust is to be maintained and the proper performance of government work. At the same time, a legitimate need exists for limited exceptions to this rule where such exceptions are necessary in the interest of the state. The rule does not interfere with the performance of official duties and reasonable legitimate needs and expectations of the public workforce or the public trust government officials owe to the public. This rule defines the circumstances under which limited exceptions are appropriate.

Adoption of this rule is based on the premise that all legislators and legislative employees use good judgment to protect public resources and fulfill their obligations to the public. The ethic of "State officials and employees of government of a public trust" has a long history, especially of honesty and integrity in fulfilling their responsibilities to the public. It is a principle that has been a part of the public trust since the founding of the Republic. The principle that public officials elected or appointed to public office should not be used for personal or private advantage is a trust grounded in the personal responsibility of legislators and employees.

(2) **Purpose and scope.** This rule provides guidance on the proper use of state resources. It is not intended to cover every situation that could arise regarding the use of state resources. Further clarification may be sought from the board.

The Senate and House of Representatives are encouraged to develop policies applying these principles to their unique circumstances. Nothing in this rule is intended to limit the ability of the Senate and the House of Representatives to adopt policies that are more restrictive. However, violation of a more restrictive Senate or House Representative rule by a legislator or legislative employee will constitute a violation of Senate or House Representative rules.

(3) General rules.

(a) Legislators and legislative employees may not use state resources including money, or property of the legislature or public trust, for the private benefit of themselves or any other person except in an incidental and infrequent use as provided in these rules. This prohibition does not apply to the use of public resources for the benefit of other persons or for the legislature or legislative employees.

(b) If there is no actual cost to the state and the cost is de minimis, there is a public benefit and if the use does not interfere with the performance of official duties, then infrequent and incidental use of state resources for private benefit may be permissible.

(i) The cost to the state is de minimis if the actual expenditure of state funds is so small as to be insignificant.

(ii) A public benefit under this rule may be direct or indirect, such as improved employment or a more active role in the improvement of the work-related skills of a legislative employee.

(4) Special qualifications and limits.

(a) A legislator/legislator/employee may not make private use of state resources for any campaign related activity. Such use of state resources is authorized by this rule and may also be prohibited by RCW 42.52.180. Subject to the exception in RCW 42.52.180(2) regarding mail and regulation of a neglected official office and certain permissible communications for propositions.

(b) A legislator/legislator/employee may not make private use of any state property which has been removed from state facilities or other official stations, even if there is no cost to the state. Use of computers which have been authorized to be taken out of the office for official purposes is permitted as an exception to this rule to the same extent as persons use of such computers permitted when located at a facility or other official station.

(c) A legislator/legislator/employee may not make private use of any state property which is consumable such as paper, envelopes, pens, etc. even if the actual cost to the state is minimal.

(d) A legislator/legislator/employee may not make private use of state computers or the equipment to access computer networks or the database for persons unless there is no cost to the state and the use does not interfere with the performance of the legislator or the employee's official legislative or administrative duties. Legislative electronic mail and internet which do not incur charges are examples of use which meet the no-cost test.

(e) In general, a legislator/legislator/employee may not make private use of state resources and then reimburse the state for the use. However, the Board recognizes that some limited situations such as legislator/employee working in a remote location may be reimbursed for appropriate systems of reimbursement must be established by the Senate or House of Representatives in advance and must result in no cost to the state. To be valid under this rule, a reimbursement system must be approved by the Board.

(5) Guidelines and hypothetical examples.

(a) Questions to ask yourself:

(i) Will my personal use of public resources result in added costs or any other disadvantage to the legislature? Am I using this resource in order to avoid personal expense?

(ii) Am my supervisor aware of my personal use of public resources? Do I feel reluctance to discuss this subject with my supervisor or fellow employees?

(iii) Am I confident that my use of legislative equipment will not compromise the security or integrity of legislative formats, software, or the legislative format network?

(iv) Are public resources being used for purposes that could be embarrassing to the legislature by creating an appearance of impropriety?

Example: An employee makes a local telephone call home every afternoon while on break. The employee's children have arrived home safely for school. This is not an ethical violation. There is no cost to

the state and in the call takes place on the employer's break will not interfere with the performance of the employee's duties.

Example 2: An employee operates a business. Every day the employee makes or receives ten business calls using state telephone numbers. All of the calls are local. This is an ethical violation. Although there is no cost to the state, making and receiving private calls throughout the day interferes with the performance of the employee's official duties because the employee is conducting business during working hours.

Example 3: A legislator employs more than the legislator's office. While in Olympia during legislative sessions, the legislator receives ten business calls per day using the state telephone number. All of the calls are local and paid with personal funds. This is not an ethical violation. RCW 42.52.330 directs the board to interpret the ethics law in light of the constitution. The legislature consists of citizen-legislators. For the purpose of the part-time legislature, receiving a call without using the employer's phone does not interfere with the performance of the legislator's duties.

Example 4: An employee posts a notice on the office bulletin board that the employee has a home telephone number for those interested in acquiring the car. This is not an ethical violation. There is no cost to the state and posting the number will not interfere with the performance of official duties and those who want to inquire about the car can call the employee at home.

Example 5: Once a year during a two-week period, the employee and his or her spouse support a youth soccer team. The employee leaves the car and spouse in an employee's common area and employees buy the car at the store. This is not an ethical violation. There is no cost to the state and the transactions do not interfere with the performance of official duties.

Example 6: Every spring a group of employees meet at lunchtime to organize an agency softball team. The meeting is held in a conference room that is not needed for agency business during lunch. This is not an ethical violation. There is no cost to the state and the meeting takes place during lunch. It does not interfere with the performance of the employee's official duties.

Example 7: An employee taking a night school class after working hours uses a legislative computer to do homework. The employee prints the homework in the office on their personal paper. The appropriate official of the Senate or House of Representatives is notified in advance and approval of the class will enhance the employee's skills. This is not an ethical violation. The use of the office computer and printer results in some cost to the state. However, the cost is negligible and the employee is using personal paper. Since the class will enhance the employee's skills, the reasonable public benefit in the activity takes place after working hours and will not interfere with the performance of the employee's official duties.

Example 8: After working hours, an employee uses the office computer and printer to compose and print reports for a private business on personal paper. This is an ethical violation. The use of the office computer and printer results in some cost to the state. Although the cost is negligible, there is no public benefit. The state is not the employer of the employee conducting private business.

Example 1: An employee in the legislative program and a student at a state four-year university. When time is available, the employee works on a paper as part of an assigned school project. The employee communicates occasionally with the supervising professor regarding the project via e-mail and state- and long-distance phone calls.

This is not an ethical violation because the intern program combines education and work experience which is specifically provided by the legislature. The combination of academic and professional experience, the use of work time and resources is not sufficient to interfere with legislative duties, therefore it is a state public benefit.

Example 16: Legislative equipment includes a television. An employee takes the machine home to watch videos of a family vacation. This is an ethical violation. Although there is no cost to the state, an employee may not make private use of state equipment removed from state facilities for official duty station.

Example 14: An employee is authorized to temporarily work in another location away from the employee's usual duty station. To perform official duties, the employee takes a laptop computer which has been checked for this purpose from the legislative office. The employee uses the computer at home for a class. The appropriate official Senate or House Representative is notified by advance written approval that the class will enhance the employee's skills.

This is not an ethical violation because the same considerations which allow these in Example 14 apply along the computer has been authorized for official business away from the legislative office.

Example 12: Two employees use the legislative computer network to play a game of chess via electronic mail during an eight-hour workday. This is not an ethical violation because there is no cost to the state and the game does not interfere with official duties.

Example 13: A legislative employee returns a long-distance phone call to a name and number that the employee does not recognize. Upon learning that the call is personal rather than business, the employee arranges for the call to be placed on a personal line. The employee uses the time of the call and makes a reimbursement pursuant to Senate and House Representative telephone policies. This is not an ethical violation because the charge to the state was unintentional and the board has approved the procedure for legislative telephone policies.

Example 14: A legislator conducts stock trades as a state-issued computer. This is an ethical violation. While conducting stock trades may not interfere with the performance of legislative duties, an improper use of state resources is private. However, occasional windowing of general stock market activity will fall within the de minimis exception.

Example 15: For convenience, an employee accesses a home computer during legislative sessions and a legislator establishes a mail account with a private Internet provider for the receipt of personal mail. The home computer is used for legislative duties. This is not an ethical violation because (1) there are no actual costs to the state for establishing or accessing the e-mail account and (2) the personal mail is received from the account for a campaign related and (3) account activities do not interfere with the performance of legislative duties.

